

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:12-00048
)	Judge Sharp
RICHARD OLIVE)	

ORDER

For the reasons set forth in the accompanying Memorandum, the Court rules as follows:

(1) Defendant’s “Motion to Preclude Government’s Use of Cease and Desist Order as Rule 404(b) Evidence for Failure to Comply with Local Criminal Rule 16.01(A)(2)(H)” (Docket No. 27) is hereby DENIED;

(2) Defendant’s “Motion to Exclude Testimony and Use of Defendant’s Statements to a California Investigator at Trial” (Docket No. 30), premised as it is on the Government’s purported non-compliance with this Court’s standing local rule on discovery in criminal cases, is hereby DENIED;

(3) Defendant’s “Motion to Exclude Rule 404(b) Evidence Based Upon the Government’s Violation of Local Criminal Rule 16.01(1)(H) and Failure to Satisfy the Three Requirement for Admissibility under Rule 404(b)” (Docket No. 31) is hereby GRANTED IN PART and DENIED IN PART as follows:

(A) The Motion is DENIED insofar as it is based upon the alleged violation of Local Rule 16.01(a)(2)(h);

(B) The Motion is GRANTED with respect to evidence of the New Life lawsuit, except to the extent that Defendant allegedly utilized NFOA funds to settle that lawsuit;

(C) The Motion is DENIED with respect to evidence relating to the

applications submitted by Defendant for the purchase or lease of Toyota and Mercedes Benz vehicle; and

(D) The Motion is Denied with respect to evidence relating to Defendant's 2006 amended tax return;

(4) Defendant's "Motion to Exclude Unlawful Acts Alleged in State Cease and Desist Orders as Rule 404(b) Evidence" (Docket No. 32) is hereby GRANTED IN PART and DENIED IN PART as follows:


(A) The Motion is GRANTED insofar as the Cease and Desist Orders contain allegations that NFOA was operating allegedly in violation of state insurance and/or securities law; and

(B) The Motion is DENIED insofar as (i) the Cease and Desist Orders were issued before the Tennessee Department of Commerce and Insurance sought to rehabilitate NFOA; (ii) those Orders asserted that NFOA was wrongfully claiming to have exempt status under Section 501(c) of the Internal Revenue Code; and (iii) Defendant did not tell investors of the issuance or existence of those Orders; and

(5) Defendant's "Supplemental Statement Concerning Cease and Desist Orders," which the Clerk has docketed as a Motion (Docket No. 43), is hereby DENIED AS MOOT.

The jury trial in this case will commence at 9:00 a.m. on February 26, 2013 as previously rescheduled by Order dated November 6, 2012.

It is SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE